Parts VIII and IX cover the subjects of Statutes and Forms. The Federal statutes, as well as those of California and Oregon, are given in full, while a digest of those of the other states and territories affected by the subject treated are given. Both the statutes and forms are very valuable for reference, but of course become obsolete in a comparatively short time and should not be relied upon exclusively by the practitioner. The main part of the work is followed by a "Table of Statutes Cited", "Table of Cases Cited", and an index, all of which are well compiled and are most helpful in using the book. The author in preparing this new edition has evidently been particularly anxious to point out as far as he could, not only the present condition of the law, but also the future trend as it is likely to be affected by the reclamation efforts of the United States Government, the tendency toward conservation, the growing insistence on a more economical use and in consequence a higher duty of water, and increasing recognition of the importance of some sort of public control.

In spite of our belief that this is without question the best work published on the subject, we must record our criticism of the author in that his point of view throughout the work appears somewhat biased by his leaning toward California's solution of these water questions. Colorado lawyers are not prepared to admit that California has solved her problems any better than Colorado has solved hers, and the inference on p. 128 (Vol. I) that those localities which are still excluding the common law riparian right doctrine are pioneer and unsettled regions, would hardly appeal to the average Coloradoan. It is to be doubted if the riparian doctrine could ever be applied to Colorado conditions, and the distinction betwen California (allowing the appropriation and riparian doctrines side by side) and Colorado (rejecting the riparian doctrine *in toto*) more probably lies in the fact that California is semi-arid, that it has a greater precipitation, and that it can on that account, with greater justice than could Colorado, administer the dual system. For like reasons, Mr. Wiel's inference (Part V) that the law of underground waters will follow riparian principles, while probably applicable to California, could not be safely followed for Colorado and the other strictly arid states; the foundation of the "first come, first served" principle would doubtless have its effect.

However, though we may take issue with certain tendencies, as above exampled, we must heartily commend the work to the profession, not only for excellence of subject matter, but for the mechanical features as well, which appear to be beyond criticism.

H. A. S.

A TREATISE ON STATUTE LAW. By WILLIAM FEILDEN CRAIES, M. A. London: STEVENS & HAYNES. 1911. pp. ci, 725.

While this treatise is founded on Hardcastle's Statutory Law, and is described on the title page as the fifth edition of that work, the original text has been so much altered that the Hardcastle foundation bears small likeness to the Craies superstructure. However, the present editor adheres to the purpose of the author in attempting to present a book which "contains the actual positive rules in force deduced from statutes and case law," rather than one which treats of the theory of the subject matter.

Undoubtedly, this work is far more serviceable to the legal profession in England than in America—or to be quite accurate—in the

British Empire than in the United States. A glance at its extensive table of cases shows that nearly all of the citations are from British reports, and the appendices (filling one hundred and sixty pages) have small value for the lawyer in this country. Appendix A contains a long list of "Words and Expressions used in Statutes which have been judicially or statutably explained." Appendix B presents the "Popular or Short Titles of Statutes." Appendix C has a reprint of the Interpretation Act of 1889 (52 and 53 Vict. c. 63) and a list of the Interpretation Acts in force in the various British Possessions.

Notwithstanding the distinctly British complexion of the book, it has features which are of interest to American lawyers. For example, it points out the difference between the power of Parliament and the power of legislative bodies in this country to change the Constitution. At the same time, it calls attention to the power, exercised in both countries by the courts, in the interpretation of statutes. While Parliament is unfettered by the limitations of a written constitution, its province is not to construe but to enact statutes; and its opinion as to the meaning of a statute is not binding on the courts, which, ever since the famous victory of Coke over James I, have successfully maintained the sole right of expounding statutes. Even a "Parliamentary exposition of an Act of Parliament is only an argument that may be prayed in aid of attaching some certain meaning to a statute, and cannot be treated as *per se* conclusive." (pp. 13, 17, 149). The treatise discloses, too, the same judicial disposition in Britain that exists in the United States to subject all Administrative Boards and Departments to the appellate jurisdiction of the courts—a disposition that has prevented the formation of a separate body of administrative law in English-speaking lands. (See *R.* v. *Board of Education* [1910] 2 K. B. 165.)

No part of this work is of greater interest to an American reader than that which deals with the rules for the interpretation of written constitutions in the British Possessions. Here the decisions of our courts are quite in point, (see p. 439) and have exercised great influence over judicial decisions in Australia and other Federal Commonwealths. Indeed, the Judicial Committee of the Privy Council has expressed the opinion that too great weight has been accorded our decisions in certain cases. Hence it refused to apply the doctrine of *McCulloch* v. *Maryland* (4 Wheat. 316) to a statute of the State of Victoria imposing a tax on the official salary of a Deputy Postmaster-General of the Commonwealth of Australia. It admitted that an opinion of "that most learned and logical lawyer," Chief Justice Marshall, might well be accepted as conclusive, if the constitutional provisions in Australia had been identical with those in the United States. But they were far from being identical. "No state of the Australian Commonwealth has the power of independent legislation possessed by the States of the American Union. Every Act of the Victorian Council and Assembly requires the consent of the Crown, and when it is assented to, it becomes an Act of Parliament as much as any Imperial Act, though the elements by which it is authorized are different." (Earl of Halsbury, *Webb* v. *Outrim* [1907] A. C. 81, 88.) It will be observed that the constitutionality of the Victorian tax law is sustained, because the royal prerogative is sufficient to protect the Federal official from a destructive or even oppressive State tax.

The reason assigned for bringing out this edition, within four years of the publication of its immediate predecessor, is the import-

ance of many decisions rendered during that period upon several modern statutes. These decisions have added to the interest and value of the work, which is now brought quite down to date.

F. M. B.

THE LAW OF FRAUDULENT CONVEYANCES, by MELVILLE M. BIGELOW, Ph. D. (Harv.), with editorial notes by KENT KNOWLTON, of the Boston Bar. Boston: LITTLE, BROWN & Co. 1911.

The present work is the result of an analysis of Dean Bigelow's original work on Fraud, wherein he dealt with the subject under the two grand divisions of Deceit and Circumvention. The doctrine of Fraudulent Conveyances, which the learned author had discussed under the latter head, now appears as an independent volume, under the more immediate title of Fraudulent Conveyances.

It is perhaps ungracious to say of the best book upon the subject, that although it draws the line between the kind of fraud comprehended by this subject and the various species which belong to the law of Deceit, and also apportions off the domain of preferential transfers, yet still it leaves the fences down on other sides.

The subject has always required thorough definition, but has never adequately received it. Not only was the origin of the doctrine of fraudulent conveyances statutory, but the conception embodied by the statute was at variance with all the common law ideas of remedial justice. It is true that Lord Mansfield once said (*Cadogan* v. *Kennett*, 2 Cowp. 432) that the statute of Fraudulent Conveyances was declaratory of a common law principle, but Lord Mansfield had the same attribute which Matthew Arnold once attributed to Macaulay: happily or not, he possessed a heightened way of putting things. There never was a common law conception of procedure which could enable a creditor to levy his writ of execution upon the property of one who was not the judgment debtor, and that is what the Statute of Elizabeth undertook to permit. Of course, if Lord Mansfield's learning in the history of the common law had been as extensive as his knowledge of other fountains of jurisprudence, we might think he was referring to the mediæval statutes denouncing fraudulent conveyances, which are graphically pictured in Professor Bigelow's work; but even that would not help us much. These statutes, it is true, denounce the practice of putting one's goods beyond the reach of creditors, but from the fact that the courts did not enforce the statutes, the conclusion might not be wrong that they occupied the same position as many other comminatory pronouncements of English sovereigns, which in old times were put in the shape of statutes. As in "The Law's Lumber Room" was said by Mr. Watt, a writer in lighter vein, but who, nevertheless, was a learned lawyer, the mediæval sovereigns had a great way of lecturing their people in the guise of statutes. A striking instance of this practice was the sumptuary laws, enacted at various times before the days of the Tudors. It might very well be that the early sovereigns during whose reigns statutes of Fraudulent Conveyances were passed, had the same aversion to fraudulent debtors as to shoes of an ell's length. But it was not until the time of Elizabeth that the King's Bench seems to have believed that Parliament meant what it said when it enacted that it was unlawful to convey your goods in fraud of creditors. Of course, this great statute has passed into every English speaking country, but the